




Speech By
Ann Leahy

MEMBER FOR WARREGO

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LOCAL GOVERNMENT (COUNCILLOR CONDUCT) AND OTHER LEGISLATION AMENDMENT BILL

 **Ms LEAHY** (Warrego—LNP) (5.06 pm): I rise to contribute to the debate on the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023. Before going into detail on the bill, I would like to mention the incredible work that many local governments and their staff are doing at the front line of the bushfire disasters across Queensland. Many have worked around the clock at evacuation centres, feeding animals left behind or supporting distressed residents who have lost their properties or their homes. On behalf of the LNP members in this House, I extend a thank you to all of the local government mayors, councillors and their staff who have supported those who have been impacted by the recent bushfires.

Turning to the bill, there are two core matters for all councils in Queensland. One is sustainability in all of its forms and the other, of course, is integrity. The LNP supports integrity and transparency in government and that includes local government. The LNP will not oppose this legislation as the bill provides improvements to the local government complaints system. However, we have some concerns about the bill, which I will outline later. I note that the government has circulated some amendments in relation to tidying up some of the renumbering and the transitional provisions. A further amendment deals with a case example that has arisen in relation to the expenditure caps legislation. It is timely that the government deal with that because we are getting very close to the local government elections, which will be held in March next year.

I thank the departmental staff for the briefings that were provided in regard to the bill and in relation to the amendments. It is incredibly important that complaints made against mayors and councillors are handled appropriately and in a timely manner. In 2018, the reform to the councillor complaints process came from the government's response to the independent Councillor Complaints Review Panel report, *Councillor complaints review: a fair, effective and efficient framework*. This report was to provide a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland. We are debating the bill before us today because the intent outlined in that reform did not materialise to the expectations of local government under the Palaszczuk Labor government's watch.

At the outset, I wish to note that the 2018 local government councillor complaints legislative changes did not arise because of a large number of complaints. In fact, the Councillor Complaints Review Panel found that at that stage only 30 of the total 245 complaints received by the then department of infrastructure, local government and planning over two years were ultimately upheld. That is only about 12 per cent so we are talking about a very small number.

The Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 was introduced by the government; however, unfortunately we find the government is now back again amending the legislation to address a broken system. The Office of the Independent Assessor and the Councillor Conduct Tribunal were established in 2018 as a result of that legislation. Following those establishments, unfortunately chaos and delays ensued. Over the following years—and to this day—

countless reports of investigative overreach, intimidation and year-long backlogs continued to emerge. I recall one complaint quite distinctly that took 2½ years and resulted in a penalty of one hours training for the councillor. It is hard to justify the time frame given the outcome was at the lowest end of the scale.

Another case was that of Sean Dillon, the mayor of Barcaldine, who was sensibly and calmly raising concerns about the vaccine rollout plans of the local hospital and health service at that time, only to be hauled before the Office of the Independent Assessor for months for raising this concern on behalf of his community in an open council meeting. This was a bizarre and dangerous war on free speech and Mayor Dillon's democratic rights. There are other cases, for instance, dealing with often frivolous complaints that have cost ratepayers in the Gold Coast City council more than \$200,000. Dan Stewart of the Gympie Regional Council was fined \$700 for a post on Facebook announcing the city's showgrounds would be able to host a popular caravan rally. Some councillors were referred to the Office of the Independent Assessor for blocking abuse on Facebook, looking disinterested in a council meeting or raising their voice in a council meeting.

Elected local government representatives should not have to be investigated for simply moderating their social media sites to protect themselves from racial abuse or for helping a local pastor access a spare set of keys to conduct a Sunday church service. There was also a case where the Office of the Independent Assessor overreached and threatened a journalist to sell out a source or face a fine. At first, the government washed their hands of these concerns and said that any complaints should be taken to the Ombudsman. It was only after repeated cases were published in the media that the government finally agreed to fronting up to the problem they had caused.

The State Development and Regional Industries Committee was tasked with an inquiry into the Independent Assessor and the councillor conduct complaints system. The committee tabled its report on 14 October 2022. The parliamentary committee came forward with 40 recommendations. This was showing that the system was broken and in need of an overhaul. I would like to thank the members of the parliamentary committee for their inquiry. During this inquiry, mayors and councillors told me they were fearful of telling their stories and could not bring themselves to either appear or make a submission. They were very fearful of repercussions. Many mayors and councillors did step forward to present to the committee, and I thank them for doing so. It took courage on their part to do this. The government officially responded on 12 January 2023, either supporting or supporting in principle all of the 40 recommendations. It was then eight months later that this bill was introduced.

On a separate issue of conflict of interest requirements, councils have been arguing for a long time that the current requirements regarding conflicts of interest are overbearing and stopping them from performing their duties for their local communities. On 28 July 2021, the Deputy Premier promised conflict of interest reforms in a media release. It has taken exactly 777 days for the reforms to be introduced via this bill. That is 777 days that mayors and councillors have been trying to go about doing their jobs for their local communities whilst burdened with onerous conflict of interest laws and fear of being referred to the Office of the Independent Assessor. This is what happens when local government is not a priority for a government. This legislation being debated today is a response to the parliamentary committee's 40 recommendations.

The bill intends to improve the local government complaints system; however, the LNP still has some concerns. Some concerns have been raised by industry groups. I will outline those individually. The bill seeks to limit the complaints system in relation to former councillors so the system only applies to those former councillors suspected of corrupt conduct. Further, the bill clarifies and enhances the councillor conflict of interest requirements—unfortunately some 777 days after they were first promised. It modernises the local government advertising requirements, because in many communities we do not have newspapers and it is quite difficult to comply and put ads in newspapers when we do not have a newspaper.

The bill provides discretion to the Electoral Commission of Queensland in relation to the recovery of local government election costs. It does give the opportunity for the Electoral Commission to decide not to actually recover election costs. It also makes consequential amendments resulting from the change of classification of the Moreton Bay Regional Council. It provides appropriate transitional arrangements for the commencement of the improved councillor conduct complaints system. It also makes minor amendments to the Queen's Wharf Brisbane Act 2016.

These amendments effectively enable the state government to freehold its own land by legislation. The explanatory notes state that the proposed amendments resolve the identified issues to facilitate the redevelopment of the Queen's Wharf Brisbane precinct under the Queen's Wharf Brisbane Act. It does this by inserting a new process for creating freehold grants in respect of the identified

Queen's Wharf development parcels, which avoids the need for subordinate legislation. It would be appreciated if in his summing up the Deputy Premier could advise the House of the identified issues. Further, the bill aims to improve the triage of complaints by introducing a preliminary assessment process, including time limitation for accepting the complaint notice or information.

In summary, there are a number of reforms to the Councillor Conduct Tribunal regarding the appointments, operations and functions of the tribunal. The reforms also allow the Independent Assessor to withdraw an application to the Councillor Conduct Tribunal. That was not able to happen under the previous legislation and that is a good improvement. The bill allows the streamlining of the requirements for notifying councillors of the Councillor Complaints Tribunal hearing details. It removes the Councillor Complaints Tribunal function of investigating suspected inappropriate conduct on behalf of a local government. The reforms introduce additional annual reporting requirements for the Independent Assessor and local governments. There is also an update to the natural justice requirements in relation to suspected conduct breaches. The reforms include publication of suspected conduct breach investigation reports and summaries and clarifications relating to meeting requirements.

There are further reforms to the Office of the Independent Assessor with regard to the process of disciplinary orders, acceptable request guidelines and removing the training functions of the Office of the Independent Assessor and requirements to publish certain details in the local government councillor conduct register. The reforms also establish that compulsory training requirements for councillors must be undertaken and recognise the provision of an official department advice to councillors. The bill also introduces administrative processes to declare a person a vexatious complainant, which has been an issue that has certainly been on the radar of many elected representatives in the local government sector.

There are still some concerns. Whilst the reforms could see an improvement, there are still some areas that could be improved. The Independent Assessor must dismiss a complaint or take no further action for the notice or information about councillor conduct in certain circumstances—for example, if it is not in the public interest to proceed. It was raised by submitters that it would be preferable if there were a clear definition of the public interest with respect to this provision. That is something that was clearly raised in some of the submissions.

With regard to publication notices, these will not contain the name of a complainant or the other person, yet there is a proposal to publish an executive summary of the investigation report in the council's agenda papers. In the smaller communities where we have councils, the reputational damage to a mayor or councillor will be done regardless of the investigation outcome. There has been considerable concern raised about this particular provision. Even if the mayor or councillor is completely innocent, this information in smaller communities will be difficult to manage as some in the community do not understand these processes. Unfortunately, reputational damage could quite easily be done by simply publishing this in the agenda papers. It is concerning and also slightly inconsistent.

Of concern to local governments is the lack of a mechanism for filtering out the vexatious complaints to the Office of the Independent Assessor where the complaints are anonymous. This is a very difficult area for local governments. This is a significant loophole which could be easily exploited. For instance, there could be two complaints and then the rest of the complaints could be made anonymously and there would be no mechanism by which to declare the complaints vexatious. I do hear from numerous mayors and councillors that quite often they find that the complaints just keep coming in a slightly different way but they are quite sure they are coming from the same person. Unfortunately I think further work will need to be done in relation to this particular provision in the future.

The bill does not provide for the creation of an independent local government integrity and conduct advisory service. This was a recommendation of the committee. It would be far better to have that sort of prevention element rather than a cure when it comes to integrity. It is disappointing that the government has not further considered this particular recommendation of the committee because I think that would provide a way to enhance dealing with integrity issues for mayors and councillors.

The bill amends legislation which could enable the use of QCAT for the re-prosecuting of cases rather than reviewing the conduct of the Councillor Conduct Tribunal and the Office of the Independent Assessor processes. QCAT should be used to review what has come forward. We have seen numerous applications to QCAT from mayors and councillors. It should not be used for re-prosecuting; it should be used for reviewing.

With the changes to the unsuitable meeting conduct of the chairperson, there is concern around the misuse of this provision for political purposes given that the mayors are popularly elected in Queensland. Mayors could be excluded from the meeting by political opponents. This is a far-reaching power to eject a mayor from a meeting. There was no parliamentary committee recommendation in

relation to this change. When we look at some of the political influences that there are—not everybody agrees in local government; sometimes there are factionalised councils—mayors could find themselves in very difficult positions if there is any intent to misuse that particular provision.

This legislation is an improvement to the system. It is not perfect. I look forward to hearing the debate on this bill. I also want to mention the improvements for the Indigenous councils in Queensland. It is very difficult for them. Often they all come from different families. They are often in a situation whereby it is very difficult for them to operate as councils. I think that continually working to try to make the system better for them should help them in making good decisions for their communities. I look forward to hearing the rest of the debate in the House.